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AUTHOR Cohen, David
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ABSTRACT

Documentation of the spread of censorship is extensive, and although challenges to films and videocassettes have not figured prominently in the literature, in the future there may be more emphasis on these media than on print material. On the state level, increasing censorship of films and videocassettes has occurred in North Carolina, California, Maine, Florida, Oklahoma, and New York. Moreover, the U.S. Department of Justice has labeled three Canadian films as "propaganda," and the U.S. Information Agency has taken action against a producer of films considered "critical" of the United States. Further examples of litigation include the Supreme Court's expected ruling on the constitutionality of a Louisiana state law mandating the teaching of creationism wherever evolution is taught, and the Mobile, Alabama, suit opposing the "secular humanist" curriculum of the schools. Furthermore, it is clear that the Meese Commission is determined to fight against pornography at all costs, employing a strategy that disregards the First Amendment by recommending 10 measures designed to reduce crime through censoring mainly pornographic books. However, censorship has been opposed effectively in the past by citizens' organizations such as the National Coalition against Censorship, the Long Island Coalition, various state groups, and those who are concerned about limitations on free speech must continue to speak out against censorship. Nine notes are provided. (KM)

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PREPARATION FOR THE BATTLE AGAINST CENSORSHIP OF FILM AND VIDEO IN THE 80s

by

David Cohen

All the surveys tell us that censorship is on the increase. Today many Americans are concerned about what is available in the search for truth. Some support our way of administering the marketplace of ideas, while others attack us in the open and thus can make our job of providing information to all, irrespective of belief, much easier to do.

Documentation for the spread of censorship is extensive. Some recent references include a seminal article that appeared in *Library Journal* this past summer. Milo Nelson has editorialized in the *Wilson Library Bulletin* on "Edwin Meese's Peep Show," and in the same journal appeared an article about censorship in the South. Fred Hechinger has sounded a clarion call in the *New York Times*. His article is based entirely on a report of People for the American Way. A few years ago the Minnesota Civil Liberties Union prepared a survey on censorship, and this past year witnessed the appearance of reports of the American Association of University Professors (AAUP) and the National Commission on Libraries and Information Science (NCLIS). In the aforementioned sources challenges to films and videocassettes do not figure largely; but this, of course, does not mean that in the future there will not be more emphasis on these media than on print material. The Meese Commission focuses its attack on magazines and films. Its report lists as pornographic 725 books, 2325 magazines, and 2370 films. Finally, there is the second biennial survey of the intellectual freedom committee of the Indiana Library Association.[1]

LET'S GO TO THE FIELD

Let us see what is transpiring at the state level. The obscenity law in North Carolina has wrought havoc on faculty of the University of North Carolina, who have terminated courses in erotic film for fear of being arrested and charged with a felony. Raids have been made on adult book stores, newsdealers, video shops and theaters. This seems incredible in a state known for its support of intellectual freedom.[2] California is working on a new obscenity law which will do away with local community standards and will establish one set of criteria for the entire state. Last spring in Maine citizens rejected an obscenity law in a referendum. In Florida a theater in Coconut Grove was picketed because of the movie "Hail Mary", a contemporary retelling of the Virgin Birth. In the southern part of this same state there are areas that prohibit the sale or rental of X-rated videotapes. Beyond this, a

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David Cohen is an adjunct professor in the Graduate School of Library and Information Studies, Queens College, City University of New York. This article is an edited version of an oral delivery at the New York Library Association conference in Rochester, October 9, 1986.

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conservative group in Edmond, Oklahoma succeeded in getting the film "Romeo and Juliet" removed from a high school library because of its encouragement of drug use and suicide. As far as New York is concerned, only six incidents have been reported for the 1985-86 year; and none of these involved films or videocassettes.[3] This, however, is not the whole story for New York. From my own knowledge I know we have experienced public protest against such films as "Year of the Dragon", "My Beautiful Laundrette", "Birth of a Nation", "The Lottery", "Sister Mary Ignatius", and "Hail Mary".

LITIGATION

When we turn to litigation, we find that the U.S. Department of Justice has labeled three Canadian films as propaganda: "If you Love This Planet", "Acid from Heaven", and "Acid Rain: Requiem or Recovery". This decision has been upheld by the Court of Appeals in Washington, and the Supreme Court has agreed to consider the case in its fall 1986 term docket. Another example of government intrusion is the action of the U.S. Information Agency against Bullfrog Films in denying this producer's documentaries, which are labeled "educational" certificates for export purposes. They are considered "critical" of the United States. A suit is in progress, and the Freedom to Read Foundation has filed an amicus brief in this case.

The Supreme Court has accepted an appeal from Louisiana authorities to rule on the constitutionality of a state law mandating the teaching of creationism wherever evolution is being taught. The state appellate court, which upheld the lower court in declaring the legislation unconstitutional, split 8-7 in its decision. We await the decision of the Rehnquist court in this matter.

In the city of Mobile, Alabama there is an all-out onslaught against the "secular humanist" curriculum of the schools, which "downgrades Christian values."A suit seeks to have thirty-nine "secular humanist" social studies and history texts and seven home economics books removed from the schools. Under fire, the school board is supporting the Fundamentalists. The American Civil Liberties Union and People for the American Way are defending the present curriculum from being subverted. The strategy of the Fundamentalists here is to challenge the entire curriculum rather than seek to ban individual books and films.[4]

IMPACT OF THE MEESE COMMISSION REPORT

It is clear that the Meese Commission is determined to fight pornography at all costs, even though no new evidence or research has come to the fore that would link obscenity with anti-social or criminal behavior. The two dissenters on the Commission, Ellen Levine, editor of *Woman's Day* and Judith Becker, Associate Professor of Clinical Psychology at Columbia University, observed that "every member of the group brought suitcases full of prior bias." The strategy of the Commission disregards the First Amendment by recommending the following measures to censor mainly pornographic books:

1. Amend federal obscenity laws to eliminate the necessity of proving

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transportation in interstate commerce;

2. Enact legislation making it unfair labor practice for an employer to hire individuals to participate in sexual performances;

3. Amend Title 18 of the U.S. Code to proscribe obscene and satellite television programming;

4. Pass legislation to prohibit the transmission of obscene conversation through the telephone or similar common carrier;

5. State legislatures are encouraged to amend obscenity statutes to make second offenses punishable as a felony;

6. IRS should investigate violations of tax laws committed by producers and distributors of obscene material;

7. The Attorney General should appoint an official from the Justice Department to oversee the operation of an obscenity task force;

8. The Justice Department should create a law enforcement database related to obscenity;

9. Local judges should impose substantial prison terms on persons repeatedly convicted of obscenity law violations;

10. Finally, the police power in America should be used to track down obscenity, pornography, sexually explicit films and video.

No recommendations were made that would encourage local social programs particularly in sex education for the young. The whole thrust was to prevent crime.[5]

STRATEGIES TO OVERCOME CENSORSHIP

Americans for Constitutional Freedom, a First Amendment coalition made up of trade associations in the field of publishing, commissioned a survey of American attitudes toward access to reading materials with surprisingly positive results. Among 1,000 respondents 84 percent felt that Americans should have access to "all books and magazines judged to be legal." Of those identified as "born again Christians," 74 percent felt Americans should have such access. 98 percent felt that access to *Time*, *Newsweek*, *Life*, and *Sports Illustrated* should be totally unrestricted. 90 percent felt that way toward *Cosmopolitan*, 72 percent toward *Rolling Stone*, 65 percent toward *Playboy*, and 61 percent toward *Penthouse*.[6]

The technique of bringing people together to support certain causes makes sense. There are technical aids to help this tactic meet challenges to books, magazines, and

films. The National Coalition against Censorship, the Long Island Coalition, and various state coalitions are all effective instruments. ACLU officials involved in compiling the report on censorship in the South recommend collective action in order to combat the rising tide of censorship. Hedy Weinberg, Executive Director of the Tennessee ACLU, proposes that there is an

> important lesson to be drawn from the report... It's imperative for all those opposed to censorship - parents, teachers, librarians, the ACLU and educational groups - to join forces and work together in a coalition. Get the word out. A very basic right is being denied to Americans if we let censorship to take place.[7]

Barbara Parker, former Education Policy Director of People for the American Way, states that "Organizing against censorship takes different forms in communities across the country. Tactics and strategies vary ... citizen groups...authors, teachers, board members, administrators, and parents united to respond to false charges censors leveled at schools." In a censorship struggle in Hillsboro, Missouri a happy outcome has been reported. A group opposed to mock elections, personal journals, the films "Romeo and Juliet" and Walt Disney's "Never Cry Wolf", and state mandated fifth grade sex education met effective opposition from a local coalition called Patrons against Censors Tactics (PACT). Dedicated to quality public education in Hillsboro, PACT succeeded in placing its own candidates on the school board.[8]

In conclusion, the playwright Christopher Durang, author of "Sister Mary Ignatius Explains It All to You" remarked at a celebration of fifteen years of the Rockefeller Foundation Fellowships for American playwrights in New York City on December 15, 1985:

> But those of us who fear limitations on our free speech must stop lazily presuming that the Constitution will take care of itself; those of you who are concerned must speak up. In my dealings with the "Sister Mary" protests, only the Dramatists Guild, the American Civil Liberties Union and writers on the Village Voice have consistently spoken up in defense of my right to have my play heard. ... Everywhere we look in our society, we see the espousal of extremist positions which are attempting to limit our right to think or say certain things. ... I don't believe in the devil but I do believe in the evils that men are capable of. And one of them has traditionally been for those in power to silence those with whom they disagree. There are more and more signs of this in our country, and I would ask people who see that as a danger to become actively involved in speaking out against those limits to our freedom of expression, and not wait until it feels more serious.[9]

NOTES

1. Howard D. White, "Majorities for Censorship," *Library Journal* 111 (1986):

31-38; Milo Nelson, "Edwin Meese's Peep Show," *Wilson Library Bulletin* 61 (1986): 4; Ron Chepesiuk, "On Assignment: Censorship in the South," *Ibid.*, p. 49-50; *New York Times* 10 September 1986; People for the American Way, *Attacks on the Freedom to Learn, a 1985-1986 Report* (Washington, D.C., 1986); Frances McDonald and Matthew Stark, *Report of a Survey on Censorship in Public Elementary and High School Libraries and Public Libraries in Minnesota* (Minneapolis: Minnesota Civil Liberties Union, 1983); *Liberty and Learning in the Schools: Higher Education's Concerns: AAUP Commission on Academic Freedom and Pre-College Education Report* (Washington, D.C.: AAUP, 1986; National Commission on Libraries and Information Science, *Censorship Activities in Public and Public School Libraries, 1975-1985* (Washington, D.C.: 1986; U.S. Attorney-General's Commission on Pornography, *Final Report*, (1986); John Swan, "Survey (Biennial) and Brief Report on Censorship Controversies," *Focus on Indiana Libraries* 40 (1986): 3.

2. James B. Meigs, "University under Fire: North Carolina's Greensboro Campus Feels the Heat of the State's New Obscenity Law," *Rolling Stone* No. 483 (1986): 77-85.

3. For these occurrences in the states, see People for the American Way, *Freedom to Learn*.

4. American Library Association. Office of Intellectual Freedom. *Newsletter on Intellectual Freedom*, 1985-1986. Passim.

5. Nelson, "Edwin Meese's Peep Show."

6. *New York Times*, 25 September 1986.

7. Ron Chepesiuk, "Censorship in the South."

8. Barbara Parker, "On Combatting Censors," *Show-Me Libraries*, 37 (1986): 22-25.

9. Christopher Durang to the Author, 31 March 1986.